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3 UNITED STATES DISTRICT COURT  
4 NORTHERN DISTRICT OF CALIFORNIA  
5 SAN JOSE DIVISION  
6

7 UNITED STATES OF AMERICA,

8 Petitioner,

9 v.

10 JOSE HERNANDEZ,

11 Respondent.  
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Case No. 17-cv-00040-BLF

**ORDER ADOPTING REPORT AND  
RECOMMENDATION OF  
MAGISTRATE JUDGE TO GRANT  
PETITION TO ENFORCE INTERNAL  
REVENUE SUMMONSES; GRANTING  
PETITION; AND DIRECTING  
PETITIONER TO SUBMIT PROPOSED  
ORDER REQUIRING RESPONDENT  
TO APPEAR BEFORE REVENUE  
OFFICER TO GIVE TESTIMONY AND  
PROVIDE ITEMS DESCRIBED IN  
SUMMONSES**

[RE: ECF 1, 10]

17 The Court has reviewed the Report and Recommendation of Magistrate Judge Howard R.  
18 Lloyd (ECF 10), recommending that the Court grant Petitioner United States of America's Petition  
19 to Enforce Internal Revenue Summonses (ECF 1) against Respondent Jose Hernandez. No  
20 objection to the Report and Recommendation has been filed and the deadline to object has elapsed.  
21 See Fed. R. Civ. P. 72(b)(2) (deadline for objection is fourteen days after being served with report  
22 and recommendation); Decl. of Michael Younger, ECF 12 (Respondent personally served with  
23 R&R on March 22, 2017).

24 The Court finds the Report and Recommendation to be correct, well-reasoned and  
25 thorough. In particular, the Court agrees with Judge Lloyd's conclusions that the United States  
26 has met its burden of establishing that the summonses were issued in good faith as required under  
27 the holding of *United States v. Powell*, 379 U.S. 48, 57-58 (1964). See R&R at 2-3, ECF 10. The  
28 burden thus shifts to Hernandez to show lack of good faith or abuse of process on the part of the

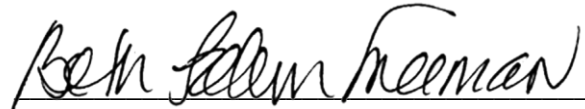
1 United States. *See id.* at 58. Judge Lloyd granted Hernandez an opportunity to make such  
2 showing by issuing an Order to Show Cause why the petition should not be granted. *See* OSC,  
3 ECF 7. Hernandez did not respond within the time provided or at all.

4 Accordingly, the Court:

- 5 (1) ADOPTS the Report and Recommendation in its entirety;  
6 (2) GRANTS the petition to enforce Internal Revenue Summonses; and  
7 (3) DIRECTS Petitioner to submit a proposed order requiring Respondent to appear  
8 before a Revenue Officer to give testimony and provide the items described in the  
9 summonses.

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11 **IT IS SO ORDERED.**

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13 Dated: April 10, 2017

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15 BETH LABSON FREEMAN  
16 United States District Judge  
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